

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodity and services to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the commodity and services.

3. The action will result in authorizing small entities to furnish the commodity and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the commodity and services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following commodity and services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Commodity

Pad, Scouring
7920-00-045-2940

NPA: Beacon Lighthouse, Inc.,
Wichita Falls, Texas

Services

Grounds Maintenance

(Basewide except Quarters and
Common Areas) Fort Sam Houston,
Texas

NPA: Goodwill Industries of San
Antonio, San Antonio, Texas

Mailroom Operation & Administrative
Support, Department of Veterans
Affairs Medical Center, 718 Smyth
Road, Manchester, New Hampshire

NPA: Easter Seal Society of New
Hampshire, Manchester, New
Hampshire

Operation of the Postal Service Center,
Building 20204 and 926, Kirtland
Air Force Base, New Mexico

NPA: RCI, Inc., Albuquerque, New
Mexico

Recycling Service, Patrick Air Force
Base, Florida

NPA: Brevard Achievement Center,

Inc., Rockledge, Florida

Beverly L. Milkman,

Executive Director.

[FR Doc. 95-2084 Filed 1-26-95; 8:45 am]

BILLING CODE 6820-33-P

COMPETITIVENESS POLICY COUNCIL

Meeting

ACTION: Notice of forthcoming meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the Competitiveness Policy Council announces a forthcoming meeting.

Dates: February 3; 9:30 a.m. to 3:00 p.m.
Address: Third Floor, 1726 M Street, NW.,
Suite 300, Washington, DC 20036.

For further information contact: Howard
Rosen, Executive Director, Competitiveness
Policy Council, Suite 300, 1726 M Street,
NW., Washington, DC 20036, (202) 632-1307.

Supplementary information: The
Competitiveness Policy Council (CPC) was
established by the Competitiveness Policy
Council Act, as contained in the Trade and
Competitiveness Act of 1988, Public Law
100-418, sections 5201-5210, as amended by
the Customs and Trade Act of 1990, Public
Law 101-382, section 133. The CPC is
composed of 12 members and is to advise the
President and Congress on matters
concerning competitiveness of the US
economy. The Council's chairman, Dr. C.
Fred Bergsten, will chair the meeting.

The meeting will be open to the public
subject to the seating capacity of the room.
Visitors will be requested to sign a visitor's
register.

Type of meeting: Open.

Agenda: The Council will discuss its FY
1995 workplan and consider additional
business as suggested by its members.

Dated: January 23, 1995.

Dr. C. Fred Bergsten,

Chairman, Competitiveness Policy Council.

[FR Doc. 95-2069 Filed 1-26-95; 8:45 am]

BILLING CODE 4739-54-M

DEPARTMENT OF EDUCATION

Arbitration Panel Decision Under the Randolph-Sheppard Act

AGENCY: Department of Education.

ACTION: Notice of arbitration panel
decision under the Randolph-Sheppard
Act.

SUMMARY: Notice is hereby given that on
May 1, 1992, an arbitration panel
rendered a decision in the matter of
*Garnette Laurell v. Michigan
Commission for the Blind*, (Docket No.
R-S/90-1). This panel was convened by
the Secretary of Education pursuant to
20 U.S.C. 107d-1(a), upon receipt of a

complaint filed by petitioner, Garnette
Laurell, on February 12, 1990. The
Randolph-Sheppard Act (the Act)
provides a priority for blind individuals
to operate vending facilities on Federal
property. Under this section of the Act,
a blind licensee, dissatisfied with the
State's operation or administration of
the vending facility program authorized
under the Act, may request a full
evidentiary fair hearing from the State
licensing agency (SLA). If the licensee is
dissatisfied with the results of the
hearing, the licensee may complain to
the Secretary of Education, who then is
required to convene an arbitration panel
to resolve the dispute.

FOR FURTHER INFORMATION CONTACT: A
copy of the full text of the arbitration
panel decision may be obtained from
George F. Arsnow, U.S. Department of
Education, 600 Independence Avenue,
SW., room 3230, Switzer Building,
Washington, DC 20202-2738.
Telephone: (202) 205-9317. Individuals
who use a telecommunications device
for the deaf (TDD) may call the TDD
number at (202) 205-8298.

SUPPLEMENTARY INFORMATION: Pursuant
to the Randolph-Sheppard Act (20
U.S.C. 107d-2(c)), the Secretary
publishes a synopsis of an arbitration
panel decision in the **Federal Register**.

Background

The complainant, Garnette Laurell, is
a blind vendor licensed by the
respondent, the Michigan Commission
for the Blind, pursuant to the Randolph-
Sheppard Act, 20 U.S.C. 107 *et seq.* The
Michigan Commission for the Blind (the
Commission) is the SLA responsible for
the Michigan vending facility program
for blind individuals.

In late 1985, the Commission located
an opportunity to take over a canteen
facility at the United States Post Office
Bulk Mail Center in Allen Park,
Michigan. The Postal Service stipulated
that the SLA needed to begin operating
the vending facility within 30 days of its
offer or the location would be open to
contracting. The SLA determined that it
was necessary to act quickly to get one
of its licensees into the facility and
activated its bidding procedures. The
complainant, Garnette Laurell, was the
successful bidder and began operating a
vending facility at the Bulk Mail Center
on January 6, 1986.

The Commission provided Ms.
Laurell with a microwave, money
changing equipment, and an initial
merchandise inventory. However, as a
condition of managing the facility, the
complainant was required by the SLA to
enter into a lease agreement with
Canteen Food and Vending Service, the

predecessor operator, for 10 pieces of vending equipment necessary to the operation of the facility. The lease required monthly payments of \$489.00 for 60 months. In 1988 the monthly payments were increased to \$514.00 with the lease arrangement ending in May 1989, when the equipment was purchased by the SLA. The lease payments totaled \$19,568.00. During the same period of time that complainant was remitting lease payments, Ms. Laurell also paid the SLA the uniform set-aside fee of 10 percent of net proceeds.

On March 28, 1989, complainant filed a request for an evidentiary hearing with the SLA, stating that she had been unjustly required to pay a lease fee for her equipment and asking for full reimbursement. The hearing was held on August 22, 1989, before a Michigan Department of Labor Administrative Law Judge (ALJ). The ALJ issued a proposed decision on October 16, 1989, affirming the SLA's actions. The SLA concurred and in a letter to the complainant dated November 9, 1989, declared that the ALJ's decision was final agency action.

Subsequently, Ms. Laurell filed a request with the Secretary of Education to convene an arbitration panel seeking a review of the final action. The arbitration hearing was held on January 6, 1992. It was agreed between the parties that the following issues would be reviewed: (1) Did the Commission have a legal responsibility to provide Garnette Laurell with the equipment that she was required to lease at the Allen Park Bulk Mail Center? (2) If so, was the Commission legally obligated to reimburse complainant for the cost of that leasing? (3) If so, was the Commission legally obligated to pay interest on the reimbursed funds? and (4) Was the Commission obligated to pay complainant's attorney's fees?

Arbitration Panel Decision

The arbitration panel ruled that the Commission had a legal responsibility to provide equipment to complainant pursuant to the Act, 20 U.S.C. 107b, which states in relevant part that the SLA is required "to provide for each license blind person such vending facility equipment * * * as may be necessary." This requirement is also reflected in the Federal regulations in 34 CFR 395.3(a)(5) and 395.6(a). In addition, the SLA's statute (Michigan, Section 4(2) of Act No. 260 of the Michigan Public Acts of 1978, (MCL 393.351)) states that the Commission "shall * * * (1) Aid individual visually handicapped persons or groups of visually handicapped persons to engage

in gainful occupations by furnishing * * * equipment * * * as necessary to encourage and equip them to reach objectives established with them by the Commission."

However, the panel majority concluded that there is a distinction between providing equipment and providing it without cost. While section 107b of the Act requires SLAs to agree to provide the necessary equipment, it expressly permits ownership interest in the equipment to reside with either the SLA or the blind licensee. The panel concluded that the Act did not contemplate that the blind licensee would acquire that ownership through a gift from the State agency, because the Act expressly anticipates that the State agency will pay the blind licensee fair value in the event that the SLA chooses to exercise its right to acquire the ownership interest. Further, § 395.3(a)(5) of the Federal regulations suggests that the obligation to provide equipment can be satisfied by "making suitable vending facility equipment *available* to a vendor" (emphasis added).

The panel reasoned that this also could include providing equipment to a vendor by means of a "lease" arrangement. To support this concept the panel also considered Act No. 260 of the Michigan Public Acts of 1978. R 393.105 of the Michigan Rules states that the Michigan Commission for the Blind shall furnish equipment to the vendor. Specifically, the panel considered language in R 393.101(k)(viii), which gives the definition of operating costs to vendors. The definition states that operating costs may include renting or leasing Commission-approved equipment or location. Therefore, the panel concluded that it is quite unlikely that Michigan intended its requirement to preclude cost to the blind licensee when the Federal authorities did not intend their requirement to preclude cost to the blind licensee.

Regarding the complainant's concern about paying set-aside fees while she was paying lease payments on equipment, the panel determined that section 107b(3) of the Act and 34 CFR 395.9(a) of the Federal regulations indicate that the determination of the reasonableness of a set-aside fee is a function of the Secretary of Education. The Secretary did not make a determination of unreasonableness with respect to the Commission's uniform set-aside fee. Furthermore, the panel concluded that while complainant's set-aside fee was the uniform 10 percent of net proceeds, the dollar amount of her set-aside fee was in fact somewhat

reduced as a result of the deduction of her lease payments in the calculation of her net proceeds.

Accordingly, the panel found that the Commission did not have a legal responsibility to provide the complainant, without cost to her, the equipment that she was required to lease at the Bulk Mail Center in Allen Park, Michigan, during the period of January 1986 to May 1989 and that, therefore, it is not legally obligated to reimburse her for the cost of that leasing.

In addition, the panel found that complainant's requests for interest and attorney's fees were without merit.

One panel member dissented.

The views and opinions expressed by the panel do not necessarily represent the views and opinions of the U.S. Department of Education.

Dated: January 23, 1995.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 95-2066 Filed 1-26-95; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Withdrawal of Notice of Intent to Prepare Environmental Impact Statement for East Fork Poplar Creek Remedial Action Project at the Oak Ridge Reservation, Oak Ridge, TN

AGENCY: Department of Energy.

ACTION: Notice.

SUMMARY: The U.S. Department of Energy today withdraws its Notice of Intent (53 FR 46648, November 18, 1988) to prepare an Environmental Impact Statement for the East Fork Poplar Creek Remedial Action Project. The Department intends to rely upon the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) process, which will incorporate National Environmental Policy Act (NEPA) values, to document its environmental review of actions to be taken in connection with this project.

FOR FURTHER INFORMATION CONTACT: For further information on the East Fork Poplar Creek Remedial Action Project, please contact:

Mr. Robert C. Sleeman, Director,
Environmental Restoration Division,
Oak Ridge Operations Office, U.S.
Department of Energy, P.O. Box 2001,
Oak Ridge, TN 37831, (615) 576-0715

For information on the Department of Energy's NEPA process, please contact:
Ms. Carol Borgstrom, Director, Office of
NEPA Oversight, U.S. Department of